



Patrick W. Henning, Director



Arnold Schwarzenegger
Governor

March 11, 2009
22M:375:JEP:8043:8044

Mr. Jeff Ruster, Director
work2future
City of San Jose Office of Economic Development
1290 Parkmoor Avenue, First Floor
San Jose, CA 95126

Dear Mr. Ruster:

WORKFORCE INVESTMENT ACT
FISCAL AND PROCUREMENT REVIEW
FINAL MONITORING REPORT
PROGRAM YEAR 2007-08

This is to inform you of the results of our review for Program Year (PY) 2007-08 of the work2future (W2F)'s Workforce Investment Act (WIA) grant financial management and procurement systems. This review was conducted by Mr. Gerald Lee and Mr. David Ajirogi from March 24, 2008 through March 28, 2008. For the fiscal portion of the review, we focused on the following areas: fiscal policies and procedures, accounting system, reporting, program income, expenditures, internal control, allowable costs, cash management, cost allocation, indirect costs, fiscal monitoring of subrecipients, single audit and audit resolution policies and procedures for its subrecipients and written internal management procedures. For the procurement portion of the review, we examined procurement policies and procedures, methods of procurement, procurement competition and selection of service providers, cost and price analyses, and contract terms and agreements and property management.

Our review was conducted under the authority of Section 667.410(b)(1), (2) & (3) of Title 20 of the Code of Federal Regulations (20 CFR). The purpose of this review was to determine the level of compliance by W2F with applicable federal and state laws, regulations, policies, and directives related to the WIA grant regarding financial management and procurement for PY 2007-08.

We collected the information for this report through interviews with representatives of W2F, a review of applicable policies and procedures, and a review of documentation retained by W2F for a sample of expenditures and procurements for PY 2007-08.

We received your response to our draft report on September 24, 2008, and reviewed your comments and documentation before finalizing this report. Because your response adequately addressed finding numbers one and two cited in the draft report,

no further action is required and we consider these issues resolved. In addition, your response adequately addressed finding three cited in the draft report, and no further action is required at this time. However, this issue will remain open until we verify the implementation of your stated corrective action plan (CAP) during a future onsite review. Until then, this finding is assigned Corrective Action Tracking System (CATS) number 80168.

BACKGROUND

The W2F was awarded WIA funds to administer a comprehensive workforce investment system by way of streamlining services through the One-Stop delivery system. For PY 2007-08, W2F was allocated: \$3,566,197 to serve 525 adult participants; \$3,782,239 to serve 447 youth participants; and \$3,327,751 to serve 410 dislocated worker participants.

For the quarter ending December 31, 2007, W2F reported the following expenditures and enrollments for its WIA programs: \$749,139 to serve 697 adult participants; \$684,273 to serve 397 youth participants; and \$509,588 to serve 346 dislocated worker participants.

FISCAL REVIEW RESULTS

While we concluded that, overall, W2F is meeting applicable WIA requirements concerning financial management, we noted instances of noncompliance in the following areas: Program income, cost allocation, and debt collection. The findings that we identified in these areas, our recommendations, and W2F's proposed resolution of the findings are specified below.

FINDING 1

Requirement: OMB Circular A-87, Attachment A , Section (c)(3)(a) states, in part, that a cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance to the relative benefits received.

The Department of Labor Financial Management Technical Assistance Guide, Part II, Chapter 8, states, in part, that allocation bases should measure actual cost or effort expended. Methodologies which are based on relative funds available or on predetermined data are unacceptable.

Observation: We observed one instance in which a cost was allocated among benefiting programs based on a predetermined estimate. Specifically, the allocation of \$14,601.95 for California Municipal Technologies, Inc. (website developer), was distributed 42 percent to Adult, 42 percent to Dislocated Worker, and 17 percent to Youth. We asked W2F how the percentage was derived and W2F was unable to provide a definable basis for the expense. Therefore, the allocation for this expense is not based on actual benefit received.

Recommendation: We recommended that W2F provide the Compliance Review Office (CRO) with a CAP stating how it will ensure, in the future, that costs allocated to multiple cost objectives are based on relative benefits received. In addition, we recommend that W2F reallocate the above identified expense based on the relative benefits received and provide documentation of its actions to CRO.

W2F Response: The W2F stated that they use various cost methodologies in assigning costs to benefiting program objectives. The costs must be allocable to a particular objective to the extent of the benefit received by that cost objective. For a direct cost to be assignable in its entirety to a particular objective, the cost objective must receive the full benefit from the goods, services, activities, or effort that make up that cost. In this instance, the costs of the services are readily identifiable to the program(s) that benefited.

For example, the costs for the services provided by California Municipal Technologies, Inc. (CMTI) included the development of the process of withdrawing courses from the Employment Training Provider List and the enhancement of the Individual Training Plan. Since the foregoing costs are readily identifiable to both the Adult and Dislocated Worker programs, both programs benefit equally from the enhancements, the costs are charged equally between them. The cost related to the development of the Individual Service Strategy (ISS) is directly charged to the Youth program since this is an enhancement readily identifiable to the Youth program. The cost for maintaining and hosting the server and websites are equally distributed across all three program areas since they equally benefit from W2F website.

The W2F also stated that they allocate costs to program(s) not based on pre-determined data but on the basis of the actual work

done which can be associated directly to the benefit received by each program at any given point in time.

State Conclusion: We consider this finding resolved.

FINDING 2

Requirement: 20 CFR Section 667.500(a) states, in part, that a State must utilize the audit resolution, debt collection and appeal procedures that it uses for other Federal grant programs. If a State does not have such procedures, it must prescribe standards and procedures to be used for this grant program.

WIA Directive WIAD01-05 states, in part, that funds collected by LWIAs in the settlement of debts must be returned to CRO immediately on their receipt.

Observation: During our monitoring review, we reviewed W2F's debt collection and found that it lacked instructions indicating that funds collected through the debt collection process by W2F must be returned to CRO.

Subsequent to our review, W2F provided a revised version of the debt collection with the included above language.

We consider this issue resolved.

In addition to the findings above, we identified a condition that may become a compliance issue if not addressed. The W2F is paying for unused space while attempting to negotiate for prospective tenants. This space, equivalent to 24 cubicles, or 1,920 square feet has been vacant for over a year. Although W2F discussed many of the past and current efforts to occupy the space, as well as future plans, we suggested that W2F increase its current efforts to occupy the space.

In its response, W2F stated that during the first year, W2F managed to sublease 7,133 square footage of its total rentable square footage of 66,479 or about 10 percent of the total rentable space. In the second year, W2F managed to increase the lease space to 17,865, 150 percent more than the first year and are in the process of negotiations with various organizations. Also, with W2F being a learning lab they have more than tripled its enrollment numbers and are in need of additional spaces for classrooms and conference rooms to accommodate the client flow.

In addition, after taking into consideration the 480 square feet rented to SolarTech, there is 1,440 square feet (1,920 – 480) of available space that W2F plans to utilize for additional meeting and training rooms. The W2F is in the process of reviewing the lease plan from other agencies interested in leasing a portion of the available space. We acknowledge W2F's success in leasing 480 square feet of unused space, however, we suggest that W2F increase its efforts to lease the remaining 1,440 square feet that has now been vacant for an additional year since our review.

PROCUREMENT REVIEW RESULTS

While we concluded that, overall, W2F is meeting applicable WIA requirements concerning procurement, we noted an instance of noncompliance in the area of contracts. The finding that we identified in this area, our recommendation, and W2F's proposed resolution of the finding is specified below.

FINDING 3

Requirement: 20 CFR Section 667.200(d) states, in part, that all WIA Title-I grant recipients and subrecipients must comply with the government-wide requirements for debarment and suspensions.

29 CFR Section 97.36(i)(3) states, in part, that grantee and subgrantee contracts must contain the provision that it will be in compliance with Executive Order (EO) 11246 of September 24, 1965, entitled "Equal Employment Opportunity," (EEO) as amended by EO 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60).

Observation: We reviewed two of W2F's PY 2006-07 subrecipient contracts. The first contract lacked the following contract language requirements:

- Compliance with EEO provisions and supplemented by the requirements of 41 CFR Part 60;
- Requiring compliance with the debarment and suspension requirements E.O. 12459 and 12689.

In addition to the missing contract language above, the second contract lacked the following required contract language:

- Compliance with EEO provisions in Executive Order 11246, as amended by E.O. 11375 and supplemented by the requirements of 41 CFR Part 60.

Recommendation: We recommended that W2F submit a CAP to CRO stating how it will include the provisions required above in future contracts.

W2F Response: The W2F stated that all missing provisions that were not in their contracts in FY 2006-07 had been added to all W2F contract templates since July 17, 2007, except for the Department of Labor provision (41 CFR Part 60), which was added subsequent to the monitoring visit. To date, all contracts after July 17, 2007 contain all required contract provisions. The W2F provided an excerpt of the pages of the updated contract template.

To ensure consistency on all contracts, staff developed a contract template incorporating all WIA required contracting provisions. As an added review and control, the draft contract goes through a review and approval process within W2F prior to finalization.

State Conclusion: The W2F's stated corrective action should be sufficient to resolve this issue and no further corrective action is required. However, we cannot close this issue until we verify, during a future onsite visit, W2F's successful implementation of its stated corrective action. Until then, this issue remains open and has been assigned CATS number 80168.

In addition to the findings above, we identified a condition that may become a compliance issue if not addressed. We noted that the request-for-proposal (RFP) resulted in a contract with Institute for Business Performance (IFB) for one year, with an extension of up to five years. We caution W2F's decision to enter into five-year contracts as it could violate fair and open competition for future interested bidders. It would appear that by extending up to five years, W2F would be limiting itself for future interested bidders in a metropolitan area.

In its response, W2F stated that in an effort to maintain effectiveness and consistency in the delivery of client services in the One-Stop, and for overall efficiency, W2F designed its Adult RFP process as such that a contract is valid for a year, with an option to extend up to five years. The extension of the contract is not automatic but is contingent upon satisfactory performance of the contractor's contractual obligations.

We provide you up to 20 working days after receipt of this report to submit to the Compliance Review Office your response to this report. Because we faxed a copy of

Mr. Jeff Ruster

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March 11, 2009

this report to your office on the date indicated above, we request your response no later than April 9, 2009. Please submit your response to the following address:

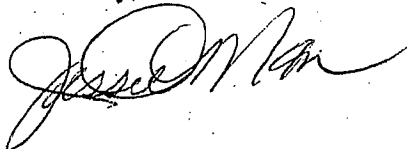
Compliance Monitoring Section
Compliance Review Office
722 Capitol Mall, MIC 22M
P.O. Box 826880
Sacramento, CA 94280-0001

In addition to mailing your response, you may also FAX it to the Compliance Monitoring Section at (916) 654-6096.

Because the methodology for our monitoring review included sample testing, this report is not a comprehensive assessment of all of the areas included in our review. It is W2F's responsibility to ensure that its systems, programs, and related activities comply with the WIA grant program, Federal and State regulations, and applicable State directives. Therefore, any deficiencies identified in subsequent reviews, such as an audit, would remain W2F's responsibility.

Please extend our appreciation to your staff for their cooperation and assistance during our review. If you have any questions regarding this report or the review that was conducted, please contact Ms. Mechelle Hayes at (916) 654-7005 or Ms. Jennifer Patel at (707) 576-2017.

Sincerely,



JESSIE MAR, Chief
Compliance Monitoring Section
Compliance Review Office

cc: Terri Austin, MIC 50
Daniel Patterson, MIC 45
Jose Luis Marquez, MIC 50
Dathan O. Moore, MIC 50